

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

FANNIE STARK FINKEL,
SAMUEL LEVINE and
MATHIAS P. POERSCH,
Executors of the Estate of
KALMAN STARK, Deceased

Claim No CU -8684

Decision No. CU -6439

Under the International Claims Settlement
Act of 1949, as amended

Counsel for claimants:

Mathias P. Poersch, Esq.

FINAL DECISION

Under date of August 4, 1971 the Commission issued its Proposed Decision in the claim of the Estate of KALMAN STARK, Deceased, based upon the asserted loss of a stock interest in Guantanamo Sugar Company. The claim was denied for the reason that the stock was said to have been owned by a Hungarian national, and no evidence was submitted to show that the owner of the stock was a national of the United States, as required by the provisions of the Act.

Counsel for claimants has since submitted evidence which shows that the late KALMAN STARK became a naturalized citizen of the United States on February 20, 1900. He has also submitted appropriate evidence of the United States nationality of the beneficiaries under the Last Will of KALMAN STARK, Deceased.

Upon consideration of the newly-submitted evidence and the entire record, the Commission now finds that KALMAN STARK was naturalized as a citizen of the United States on February 20, 1900, and that he remained a United States national until July 20, 1967, the date of his death. The Commission thus finds that the Executors of the Estate of KALMAN STARK, Deceased, are entitled to favorable consideration of the claim.

In our decision entitled the Claim of Henrietta Mae Siegel (Claim No. CU-3478 which we incorporate herein by reference), we held that the properties owned by the Company were nationalized or otherwise taken by the

Government of Cuba on August 6, 1960, and that this type of claim is compensable to an American national under the facts and conditions set forth therein. We need not again detail here the reasons or the method used in determining the value per share of \$49.7856.

On the basis of evidence in the record in the instant case, the Commission finds that beneficiaries of the Estate come within the terms of the Siegel decision; that the deceased was an American national at the requisite times; that he had been the owner of 900 shares of stock in the Guantanamo Sugar Company since prior to August 6, 1960; and that he suffered a loss in the amount of \$44,807.04 within the meaning of Title V of the Act to which the Executors of the Estate have succeeded on behalf of the beneficiaries. Further, the Commission finds that the amount of loss sustained shall be increased by interest thereon at the rate of 6% per annum from August 6, 1960, the date of loss, to the date on which provisions are made for the settlement thereof. (See Siegel, supra.)


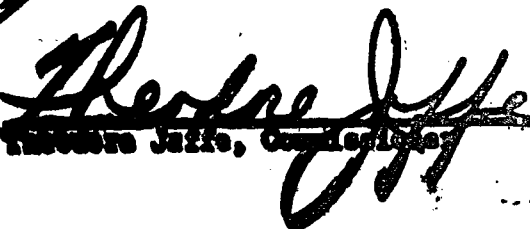
Accordingly, the following Certification of Loss will be entered and the remainder of the Proposed Decision, as amended herein is affirmed.

CERTIFICATION OF LOSS

The Commission certifies that FANNIE STARK FINKEL, SAMUEL LEVINE and MATHIAS P. POERSCH, Executors of the Estate of KALMAN STARK, Deceased, suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Forty-Four Thousand Eight Hundred Four Dollars and Four Cents (\$44,804.04) with interest thereon at 6% per annum from August 6, 1960, to the date of settlement.

Dated at Washington, D. C.,
and entered as the Final
Decision of the Commission

AUG 25 1971


John F. Carlock, Chairman

Theodore Jaffe, Commissioner

NOTICE TO TREASURY: The above-referenced securities may not have been submitted to the Commission or if submitted, may have been returned; accordingly, no payment should be made until claimant establishes retention of the securities or the loss here certified.

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.

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FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

Estate of KAIMAN STARK, Deceased

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-8684

Decision No. CU 6439

Counsel for claimant:

Mathias P. Poersch, Esq.

PROPOSED DECISION

This claim against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$7,200.00 is based upon an asserted loss arising from a stock interest in Guantanamo Sugar Company.

Under Title V of the International Claims Settlement Act of 1949 [79 Stat. 1110 (1964) 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term 'property' means any property, right, or interest including any leasehold interest, and debts owed by the Government of Cuba or by enterprises which have been nationalized, expropriated, intervened, or taken by the Government of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

Section 504 of the Act provides, as to ownership of claims, that

(a) A claim shall not be considered under section 503(a) of this title unless the property on which the claim was based was owned wholly or partially, directly or indirectly by a national of the United States on the date of the loss and if considered shall be considered only to the extent the claim has been held by one or more nationals of the United States continuously thereafter until the date of filing with the Commission.

The Regulations of the Commission provide:

The claimant shall be the moving party and shall have the burden of proof on all issues involved in the determination of his claim. (FCSC Reg., 45 C.F.R. §531.6(d) (1970).)

This claim was docketed by the Commission pursuant to a filing of claim by Guantanamo Sugar Company on May 1, 1967, for the benefit of its stockholders.

This claim is based on 7,200 shares of Guantanamo stock said to have been owned by KALMAN STARK, a Hungarian national who died on July 20, 1967.

The claim against the Government of Cuba arose on August 6, 1960, when the properties of the company were taken by the Government of Cuba, (See Claim of Henrietta Mae Siegel Claim No. CU-3478.).

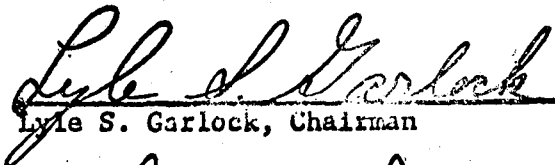
It is clear therefore that it was not owned on the date of loss by a national of the United States.

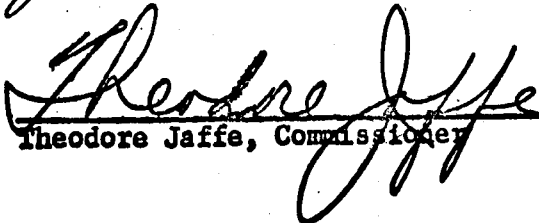
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Thus, the Commission is constrained to deny this claim and it is hereby denied. (See Claim of Sigridur Einarsdottir, Claim No. CU-0728, 25 FCSC Semiann. Rep. 45 /July-Dec. 1966/.) The Commission deems it unnecessary to make determinations with respect to other elements of the claim.

Dated at Washington, D. C.,
and entered as the Proposed
Decision of the Commission

AUG 4 1971


Lyle S. Garlock, Chairman


Theodore Jaffe, Commissioner

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g) as amended (1970).)

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